



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JAN 31 1990

OFFICE OF  
WATER

MEMORANDUM

SUBJECT: February 4, 1990 Deadline for Storm Water Permit Applications

FROM: James R. Elder, Director  
Office of Water Enforcement and Permits

TO: Water Management Division Directors  
Regions I-X  
NPDES State Directors

Background

Section 402(p)(4) of the Clean Water Act (CWA) requires the Environmental Protection Agency to promulgate regulations setting forth permit application requirements for storm water discharges associated with industrial activity and municipal discharges of storm water from separate storm sewer systems serving a population of 250,000 or more two years after enactment of the Water Quality Act of 1987 (i.e. by February 4, 1989.) CWA section 402(p)(4) also requires dischargers of storm water associated with industrial activity and municipal discharges from separate storm sewer systems serving a population of over 250,000 to file permit applications addressing such storm water discharges within three years after enactment of the Water Quality Act (i.e. by February 4, 1990.)

On December 7, 1988, EPA issued a proposal setting forth application requirements for storm water discharges associated with industrial activity, large municipal storm water discharges, and discharges from municipal separate storm sewers serving a population of 100,000 or more, but less than 250,000. 53 Fed. Reg. 49416. The proposal provided for submission of permit applications for discharges associated with industrial activity one year after promulgation of the final rule. The proposal also provided for a two part permit application for large municipal separate storm sewer systems. Under the proposal, Part 1 of the application would be submitted one year after promulgation of the final rule, with Part 2 submitted two years after promulgation of the final rule. The proposed regulations represent a significant change in the type and quality of information required for applications from a storm water permit for discharges from both municipal and industrial sources. EPA is subject a court approved consent decree to promulgate final storm water permit

application regulations by July 20, 1990.

EPA has received several inquiries, both during and after the public comment period, regarding the February 4, 1990, deadline for permit applications from industrial and large municipal storm water sources. The public has asked two basic questions regarding the deadline: 1) since EPA did not meet the February, 1989, deadline for promulgating new/amended storm water application regulations, will the Agency require industrial/large municipal dischargers to file applications by February 4, 1990, or is the deadline waived; and, 2) if the deadline is not waived, what application requirements should these dischargers follow, the existing requirements in 40 CFR 122, or those proposed on December 7, 1988.

#### Clarification of requirements

The Agency will not be able to promulgate the final application regulations for storm water discharges before the February 4, 1990 deadline. Further, the Agency is not able to waive the statutory deadline. As a result, some guidance is needed with regard to those dischargers required to apply by February 4, 1990, who will not know for certain until later on in the year what application information will be required by the new regulations.

Application information required from all permit applicants is presently found at 40 CFR 122.21(f). These requirements should be reviewed by those dischargers affected by section 402(p)(4) of the CWA. Complying with these requirements is the current minimum response with regard to submitting permit applications for discharges, including storm water discharges. Storm water dischargers should also review 40 CFR 122.21(g) through (k) to determine if any additional application information is currently required given their particular case. The minimum information and any such additional information may be submitted using current standard NPDES application forms including: Form 1 and all appropriate portions of standard Form A, Short Form A, Form 2B, Form 2C, Form 2D and Form 2E. Those dischargers affected by section 402(p)(4) of the CWA should assess these forms for possible use as a storm water permit application. Storm water discharges designated under section 402(p)(2)(E) of the CWA, may be required to submit storm water permit applications using these forms along with additional appropriate information.

If additional questions exist, please feel free to call me at (202) 475-8488 or Cynthia Dougherty at (202) 475-9545, or your staff may call Tom Seaton at (202)-245-4204. Dischargers should be instructed to call the storm water hotline at (202) 475-9518.